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10 Chapter 7 Trustee
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8 **UNITED STATES BANKRUPTCY COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10 **SACRAMENTO DIVISION**
11
12

13 In re:

14 **JAMES BAGGARLY and**
15 **KATHRYN BAGGARLY,**

16 Debtors.

17 Case No. 09-42342-A-7
18 Chapter 7

19 DCN: DNL-3

20 Date: March 1, 2010

21 Time: 9:00 a.m.

22 Place: Courtroom 28, Dept A
23 501 I Street, 7th floor
24 Sacramento, CA 95814

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19 **TRUSTEE'S MOTION FOR AUTHORITY TO ABANDON REAL PROPERTY:**
20 **18362 RING NECKED COURT, WOODLAND, CA**

21 Chapter 7 Trustee, SUSAN K. SMITH ("Trustee"), seeks an order of the court that real
22 property commonly referred to as 18362 Ring Necked Court, Woodland, CA ("18362 Ring Necked
23 Court") is abandoned as being burdensome and of inconsequential value and benefit to the estate
24 pursuant to 11 U.S.C. §554(a). In support of her motion, Trustee respectfully represents:

25 1. On October 14, 2009 the above-captioned bankruptcy case was commenced by the
26 filing of a voluntary Chapter 7 petition on behalf of the debtors.

27 2. Trustee is the duly appointed trustee for the debtors' estate.

28 3. Among the assets of the debtors' estate is the debtors' residence, 18362 Ring Necked
Court.

1 4. 18362 Ring Necked Court is encumbered by a deed of trust in favor of Wells Fargo
2 Bank (the "Lender") to secure a Note in the principal sum of \$637,900.00.

3 5. Lender subsequently assigned the Note and Deed of Trust to US Bank National
4 Association ("USBNA")

5 6. On December 16, 2009, USBNA filed a Motion For Relief From Stay (PD-2), seeking
6 leave to enforce all of its rights under the Note and Deed of Trust, including its ability to foreclose
7 on 18362 Ring Necked Court.

8 7. According to the debtors' schedules, the fair market value of 18362 Ring Necked
9 Court is \$405,000.00.

10 8. Pursuant to the moving papers filed by USBNA, equity in 18362 Ring Necked Court
11 is as follows:

Fair Market Value:	\$405,000.00
Less:	
USBNA Trust Deed:	\$661,507.73
Lender's 2 nd Deed of Trust:	\$201,163.00
Cost of Sale:	\$ 32,400.00
Equity:	-\$490,070.73

12 9. On February 2, 2010, the Court entered an order granting USBNA's motion for relief
13 from stay.

14 10. In light of the negative equity in 18362 Ring Necked Court, Trustee believes that
15 continued administration of this asset is burdensome and of inconsequential value to the estate.
16

17 WHEREFORE, Trustee requests that this court approve Trustee's abandonment of 18362
18 Ring Necked Court pursuant to 11 U.S.C. §554(a) and for such other and further relief as the Court
19 deems proper.

20 DATED: February 4, 2010

21 **DESMOND, NOLAN, LIVAICH & CUNNINGHAM**

22 By: _____



23 **J. RUSSELL CUNNINGHAM**

24 Attorneys for Susan K. Smith

25 Chapter 7